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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,603	12/08/1999	Robert Walter Dmitroca	10981247-1	6669

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EXAMINER
WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 08/02/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

<table>
<tr>
<td rowspan="2">Office Action Summary</td>
<td>Application No.
09/456,603</td>
<td>Applicant(s)
DMITROCA, ROBERT WALTER</td>
</tr>
<tr>
<td>Examiner
Stephan F Willett</td>
<td>Art Unit
2152</td>
</tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _22 June 2001_ .

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

DETAILED ACTION

Title Change

1.   Pursuant to MPEP 606.01, the title should be changed to provide a complete and detailed description of the invention.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-4, 10, 12-14, 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. with Patent Number 5,226,118 in view of de Vries with Patent Number 5,495,168.

4.   Regarding claim(s) 1, 10, 12, 19, Baker teaches a data analysis system. Baker teaches receiving data, col. 5, lines 55-57 and 61-62. Baker teaches determining the range of data, col. 7, lines 14-18. Baker teaches incrementing a count if data is within a certain as in a histogram, col. 8, lines 41-43. Baker teaches storing the data in an array even if it is outside the range, col. 11, lines 38-42. Baker teaches scaling the range of values to within the data set, col. 14, lines 18-24.

Baker teaches the invention in the above claim(s) except for explicitly teaching adjusting or scaling the ranges in a histogram. In that Baker operates to manipulate data sets, the artisan would have looked to the database arts for details of implementing data manipulation and data displays. In that art, de Vries, a related data display system teaches "to signal conditioning circuit to appropriately scale the amplitude of the input signal to a viewable level on display device", col. 3, lines 58-60 in order to provide viewable data. de Vries specifically teaches "the interval determined as being the predominate interval of the input signal may then be used manually or automatically adjust the horizontal time base to result in an on-screen waveform of a predetermined or user selected number of cycles", col. 4, lines 55-58 and at 47-52. A histogram that organizes data within the range of values received is taught and inherently a histogram point is centered around a value with a range of values determined around or within a range of said center value. Further, de Vries suggests that "the intervals represented by T1-T3 and T5 is the predominate interval, and is used to determine the time base setting", col. 5, lines 22-24 and this will result from implementing his data analysis. The motivation to incorporate time ranges for all values insures that all data is incorporated into the histogram. Thus, it would have been obvious to one of ordinary skill in the art to incorporate various data divisions as taught in de Vries into the data system described in the Baker patent because Baker operates with graphical data and de Vries suggests that data can be stored, manipulated and displayed in various known ways. Therefore, by the above rational, the above claim(s) are rejected.

5.   Regarding claims 2, Baker teaches scaling all data received, col. 12, lines 11-14.

6.   Regarding claims 3-4, 13-14, Baker teaches formatting the data for a GUI, col. 13, lines 32-36.

7.   Claims 5-9, 15-18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Baker et al. with Patent Number 5,226,118 and de Vries with Patent Number 5,495,168 in view

of Fletcher et al. with Patent Number 6,321,264.

8.   Regarding claim(s) 5, 15, Baker-deVries teaches a data analysis system. Baker-deVries

teaches the invention in the above claim(s) except for explicitly teaching using data that consists

of network delay times for packets. In that Baker-deVries operates to manipulate data sets, the

artisan would have looked to the database arts for details of implementing data manipulation and

data displays. In that art, Fletcher, a related data display system teaches "a data packet takes a

measurable amount of time to travel from client computer system to server", col. 8, lines 17-19 in

order to create usable data. Fletcher specifically teaches "data table is used to store entries

consisting of the time difference between these time-stamps", col. 9, lines 49-51. Displaying a

range of values that consist of time delays for packet transport is taught and inherently said data

can be generated with a ping command. Further, Fletcher suggests "display device if Fig. 2

utilized with client computer", col. 7, lines 7-8 will display said generated data. The motivation

to incorporate data consisting of time delays insures that relevant data is displayed. Thus, it

would have been obvious to one of ordinary skill in the art to incorporate various time delay data

as taught in Fletcher into the data system described in the Baker-deVries combination because

Baker-deVries operates with graphical data and Fletcher suggests that said data can be displayed

on a GUI. Therefore, by the above rational, the above claim(s) are rejected.

9.   Regarding claim 6, 16, the Baker-deVries-Fletcher combination discloses the method of

the preceding claims. The Baker-deVries-Fletcher combination does not explicitly disclose

determining jitter from measured data. However, Official Notice is taken MPEP 2144.03 (a))

that determining jitter is well known in the art to insure relevant data performance is understood.

It would have been obvious to one of ordinary skill in the art at the time of the application's

invention to determine jitter to obtain the advantages of extracting relevant data from the

measured data. By the above rational, the claim is rejected.

10.   Regarding claims 7, 11, 17, 20, Baker teaches recalculating based on determined

parameters, col. 14, lines 61-62.

11.   Regarding claims 8-9, 18, Baker teaches scaling by a factor certain ranges of data, col.

15, lines 39-40.

Conclusion

12.   Prior art made of record and not relied upon is considered pertinent to applicant's

disclosure is disclosed in the Notice of References Cited. The other references cited teach

numerous other ways to perform data analysis with packet delay values, thus a close review of

them is suggested.

13.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The

examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

14.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the

organization where this application or proceeding is assigned is (703) 308-6606.

15.   Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-9605.

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100